IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

AND
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8431 of 2000

Between:

1 N. Manik Reddy S/o N. Kista Reddy
R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District. (Died per L.Rs.)
2 N. Malla Reddy S/o N. Kista Reddy
R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District.
3 N. Chenna Reddy S/o N. Kista Reddy
R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District.

4. N.Pushpamma W/o late N.Manik Reddy, 65 years,

R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District.

5 N.Goverdhan Reddy S/o late N.Manik Reddy, aged 37 years, R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District.
6 N.Madhusudhan Reddy S/o late N.Manik Reddy, aged 35 years, R/o Mailardevpally, Rajendranagar (M),
Ranga Reddy District.
(Petitioners 4 to 6 were brought on record as Legal Representatives of deceased-petitioner No.1 as per Court order dated 19-01-2005, in W.P.M.P.No.19233 of 2004)

..... PETITIONERS

AND

1 Union of India rep. by Secretary
Housing & Urban Development Dept. New Delhi.

2 State of A.P. through Secretary
Revenue Dept. Secretariat,
Hyderabad.
3 The Commissioner, Urban ceiling A.P., Hyderabad.
4 The Special Officer & Competant Authority, Urban land Ceiling,

Hyderabad
5 The Mandal Revenue Officer, Bandlaguda (M), Hyderabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring Sub Section 2 of Section 1 of Urban Land (Ceiling & Regulation) Repealing Act 15 of 1999 as illegal and arbitrary to the extent of stipulating the applicability of Repealing Act subject to adopting the same by resolution of State Legislature, by further setting aside the order dt: 28-3-2000 passed in ULC Appeal No.Hyd/2,3,18/2000 on the file of the 3rd respondent, as illegal and arbitrary; Award costs.

Counsel for the Petitioners: MR.K.RAGHUVEER REDDY

Counsel for Respondent No.1: MR. A. RAJASEKHAR REDDY(SC FOR CG)

Counsel for Respondents No.2 to 5: GP FOR REVENUE

The Court made the following :

ORDER:

The Chief Commissioner of Land Administration dismissed the appeal preferred by the petitioners herein, vide impugned order, dated 28-03-2000, on the ground that it is barred by limitation and no reasonable cause is shown to condone the delay in preferring the appeal.

It is evident from the very impugned order that in response to the draft statement under Section 8(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act"), the petitioners have submitted their no objection petitions on 5-8-1982 requesting the Special Officer and Competent Authority to initiate further proceedings under the Act. The Special Officer and Competent Authority is stated to have accordingly passed an order on 6-8-1982. The order remained uncommunicated to the petitioners herein, which is evident from the following observations made by the Chief Commissioner in the impugned order:

> "These orders as seen from the S.Os. record, do not seem to have been dispatched by post. Nor there is anything to show that they were served by messenger/enquiry officer. Nevertheless, it can safely be said that the appellants were aware as to what would follow, pursuant to their no objection petitions filed before the S.O. on 5-8-1982."

The reasons assigned by the Commissioner for dismissing the appeal preferred by the petitioners herein on the ground of delay, in our considered opinion, are totally untenable and unsustainable. The Special Officer and Competent Authority is bound to communicate the orders passed under Section 8(4) of the Act, which would enable the aggrieved persons to prefer an appeal before the appellate authority. That a valuable right of the persons to file an appeal has been conferred under the Act. The question of delay would arise only when it is established that a copy of the order against which appeal is to be preferred has been duly communicated, as is required in law. There is a clear finding by the appellate authority in the instant case that the proceedings against which the appeal has been preferred were not communicated and they remained in the file itself. Obviously, the petitioners having come to know about the impugned proceedings, obtained the copy and preferred an appeal, and in such an event, the appeal cannot be said to be barred by limitation. It is nobody's case that the appeal has been filed beyond the prescribed period even after obtaining the copy of the order. The appeal is filed within the period of limitation after the petitioners have obtained the copy of the order.

For the aforesaid reasons, the impugned order is set aside. The respondent-Commissioner is directed to entertain the appeal preferred by the petitioners for its disposal on merits in accordance with law. The appeal shall be heard and disposed

of in accordance with law and shall not be dismissed on the ground of limitation. It shall be open to the petitioners to raise such contentions and grounds as may be available to them in law, which shall duly be taken into consideration by the appellate authority for disposal of the appeal on merits. There shall be order accordingly. *Status quo* with regard to the possession of the land existing as on today shall be maintained until disposal of the appeal. The appeal itself may be heard and disposed of as expeditiously as possible.

The writ petition is accordingly allowed to the extent indicated without any order as to costs.

(B.SUDERSHAN REDDY,J)

Dated:19-01-2005

(C.V.RAMULU)

Note:Furnish C.C. in one week.

(B/o) *GJ*

To

1 The Secretary, Union of India,
Housing & Urban Development Dept. New Delhi.
2 The Secretary, State of A.P.,
Revenue Department Secretariat,
Hyderabad.
3 The Commissioner, Urban ceiling A.P., Hyderabad.
4 The Special Officer & Competant Authority, Urban land Ceiling,

Hyderabad
5 The Mandal Revenue Officer, Bandlaguda (M), Hyderabad District.

6 2 CCs to the G.P for Revenue, High Court Buildings,

Hyderabad(O.U.T).

7 2CD copies